



02 JUL 2007

Roger L. Browdy
BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001-5303

In re Application of :
CONGARD *et al* :
U.S. Application No.: 10/570,135 :
PCT No.: PCT/FR2004/002241 :
Int. Filing Date: 02 September 2004 :
Priority Date: 02 September 2003 :
Attorney Docket No.: CONGARD3 :
For: PROJECTION SCREEN, IN :
PARTICULAR FOR VIDEO :
PROJECTION REDUCING THE MOIRE :
EFFECT :

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 03 January 2007.

BACKGROUND

On 02 October 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 03 January 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition; the surcharge fee; the petition and surcharge fees; a declaration signed by one of the two named inventors; a declaration of Yves Trelohan; and assorted documentary evidence.

DISCUSSION

Applicants claim that one of the two named inventors refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 02 October 2006.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor(s) cannot be located or refuses to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor(s).

Concerning item (1), the petition fee of \$200.00 has been paid.

Regarding items (3) and (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors on behalf of himself and the nonsigning joint inventor. The residence, address and citizenship of both inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Therefore, items (1), (3) and (4) are complete.

Regarding item (2), applicants' submitted a declaration by Mr. Trelohan who states that he sent certain documents to Mr. Congard on 23 March 2006 which included a copy of the subject application and a declaration. Mr. Congard was requested to sign and return the declaration. A second letter was mailed on 05 June 2006 reminding Mr. Patrice of his obligation to sign the documents. Copies of these letters with an accompanying English translation and copies of the postal receipts were submitted with the petition. Mr. Trelohan declares that he has "never received any response from Mr. Congard with respect to either of these two letters." No other action was taken to obtain the declarations.

This is insufficient to meet item (2) of 37 CFR 1.47(a).

Petitioners are claiming that the conduct of the nonsigning inventor constitutes a refusal pursuant to § 409.03(d) of the MPEP. Petitioners have shown that a complete copy of the subject application was mailed to the last known address of the nonsigning inventor as required. However, the French postal receipts used to prove receipt of the documents by Mr. Congard are in a foreign language without an accompanying English translation. Moreover, the copies submitted are illegible. Accordingly, there is no way to determine the receipt of these documents by Mr. Congard from the evidence presented. Furthermore, the 37 CFR 1.47(a) applicants should have attempted to contact the nonsigning inventor via telephone or email to verify his intention with regard to the subject application. Such efforts are not extraordinary and are required here.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in cursive script that reads "James Thomson".

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302